



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

SW

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|-------------------------|------------------|
| 10/691,114 | 10/22/2003 | Jason A. Sullivan | 11072.9 | 5337 |
| 7590 01/10/2005 | | | | |
| KIRTON & McCONKIE 1800 Eagle Gate Tower 60 East South Temple Salt Lake City, UT 84111 | | | EXAMINER BUI, HUNG S | |
| | | | ART UNIT 2841 | PAPER NUMBER |

DATE MAILED: 01/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/691,114

Applicant(s)

SULLIVAN, JASON A.

Examiner

Hung S. Bui

Art Unit

2841

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 and 26-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 10-13 and 15-20 is/are rejected.
- 7) ☒ Claim(s) 8, 9, 14 and 26-30 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 09/09/04.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: applicant must provide serial numbers of related applications, for example, page 2, lines 10 and 12.
12. Appropriate correction is required.

Claim Objections

2. Claims 26-30 are objected to because of the following informalities:
 - in claim 26, lines 8-9, there is no antecedent basis for "the encasement." It is assumed that applicant intended "the based encasement." In line 11, there is no antecedent basis for "the first dynamic back plane."
 - In claim 27, applicant states that "... to the first bus system to form an enterprise" Applicant should explain more whether "form an enterprise" is intended.
 - In claim 30, applicant states that "... to form a single bus system for an enterprise..." Applicant should clarify whether "for an enterprise" is intended. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Art Unit: 2841

4. Claim 11 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 11, the phrase "any type" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "any type"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-5, 7, 10-13, 16 are rejected under 35 U.S.C. 102(e) as being anticipated by Unrein [US 6,490,157].

Regarding claim 1, Unrein discloses a dynamically module processing unit (figure 1a) comprising:

- a first non-peripheral based encasement (403);
- a first processor (415) coupled to a first optimized circuit board (417) coupled to the encasement including a first bus system (column 7, lines 1-15); and

Art Unit: 2841

- a first dynamic back plane (301) coupled to the first encasement (column 6, lines 43-58) for providing flexibility and support to peripherals and applications.

Regarding claim 2, Unrein discloses the backplane including one of more data manipulating systems (column 5, lines 24-38) and being coupled with the first optimized circuit board (column 7, lines 57-65).

Regarding claims 3-4, Unrein discloses the first optimized circuit board including a plurality of interconnected layered segments (figure 4b).

Regarding claim 5, Unrein discloses a plurality of peripheral connection ports (figure 3).

Regarding claim 7, Unrein discloses the use of a plurality of cpu modules connected to the backplane (column 5, lines 39-58).

Regarding claim 10, Unrein discloses a memory (figure 4a) being coupled to a bus system and within the encasement.

Regarding claims 11-12, Unrein discloses the backplane/cpu being used for a plurality of application and system (column 5, lines 1-38).

Regarding claim 13, Unrein discloses the use of a thermodynamic cooling process (column 7, lines 44-55).

Regarding claim 16, Unrein discloses the processing unit being a CPU.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 2841

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 6, 15 and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Unrein.

Regarding claim 6, Unrein discloses everything claimed except the use of a mass storage device as the peripheral.

Unrein (figure 1a) discloses the use of a mass storage device (109) as a peripheral coupled to a backplane (101).

It would have been obvious to one of ordinary skill in the art at the time the invention was made that a mass storage device would have been used with the ports (307) of Unrein, as suggested by figure 1a, for the purpose of providing mass storage.

Regarding claim 15, Unrein disclose everything claimed except the backplane being selectively exchangeable. Unrein discloses the CPU being an exchangeable (column 7, lines 57-65).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to also have the backplane being exchangeable in order to facilitate system upgrades.

Regarding claims 17-20, Unrein discloses the claimed invention except for the size and type of device.

It would have been an obvious matter of design choice to configure the module processing unit as a handheld device, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as

being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

The particular type of device would have been an obvious design consideration based on the specific application and connection requirements intended therefor.

Allowable Subject Matter

9. Claims 8-9, 14 and 26-30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: The cited reference and the prior art of record, fail to teach or suggest, in the claimed combination, the modular processing system having a tri-board electrical printed circuit board configuration removably secured within the modular and connecting an flexibility interchangeable back plane.

Conclusion


10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hung S. Bui whose telephone number is (571) 272-2102. The examiner can normally be reached on Monday-Friday 8:30AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kamand Cuneo can be reached on (571) 272-1957. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2841

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

1/6/05
HB


KAMAND CUNEO
ASSISTANT PATENT EXAMINER
TECHNOLOGY CENTER 2800